

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EDWARD TRAMBLE,)	
)	
Petitioner,)	
)	
v.)	No. 4:14 CV 547 RWS
)	
JAMES HURLEY,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on Petitioner Edward Tramble's petition for writ of habeas corpus under 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Noelle C. Collins for a report and recommendation on all dispositive matters per 28 U.S.C. § 636(b). On February 6, 2017, the Magistrate Judge filed her recommendation that Tramble's habeas petition should be denied.

Objections to the Magistrate Judge's Report and Recommendation were due by February 21, 2017. Neither side filed timely objections. On March 10, 2017, I adopted and sustained the Magistrate Judge's Report and Recommendation, denied Tramble's petition, and entered judgment in the case. On March 23, 2017, I granted Tramble's motion for reconsideration in light of his claim that he had been transferred to a different correctional center and did not receive a copy of the Report and Recommendation before I entered judgment.

Tramble has now filed objections to the Report and Recommendation. In his objections, Tramble restates some of the arguments he made in his habeas petition. I have conducted a *de novo* review of the entire file, including all matters relevant to the petition. After careful consideration, I will overrule Tramble's objections and again adopt and sustain the Magistrate Judge's Report and Recommendation in its entirety and deny Tramble's petition.

Tramble objects to the Magistrate Judge's recommendation that he be denied relief on his claims for ineffective assistance of counsel (Grounds 2 and 3). He again argues his trial counsel was ineffective for failing to impeach a witness, Pastor Rainey, with his prior criminal history and for failing to request an instruction to the jury that they could consider Pastor Rainey's past criminal history in weighing his credibility and testimony.

I agree with the Magistrate Judge that Tramble is not entitled to habeas relief on his ineffective assistance of counsel claims for the same reasons stated by the Magistrate Judge in her Report and Recommendation. Tramble failed to show that his trial counsel erred or that he was prejudiced by any alleged deficient performance. *See Strickland v. Washington*, 466 U.S. 668, 687 (1984). The Magistrate Judge correctly applied the governing law to the facts of Tramble's case and correctly concluded that the Missouri court's ruling that Tramble received effective counsel was not contrary to, or an unreasonable application of, clearly established federal law. As a result, I will overrule Tramble's objections to the Magistrate Judge's Report and Recommendation.

Tramble also asks that I appoint counsel to amend his response to the Report and Recommendation. I will deny the request. Tramble does not have a right to counsel in these proceedings. *See McCall v. Benson*, 114 F.3d 754, 756 (8th Cir. 1997). The factual and legal issues raised by his petition are not so complex that the appointment of counsel would benefit Tramble or this Court. The record demonstrates Tramble had the benefit of counsel in the state court proceedings, including in proceedings for post-conviction relief, and has shown an ability here to investigate and articulate his claims without counsel. *See Williams v. Goose*, 979 F.2d 1335, 1337 (8th Cir. 1992) (per curiam).

Finally, I have considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal

constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Because Tramble has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that United States Magistrate Judge Collins's Report and Recommendation filed on February 6, 2017 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Edward Tramble's objections to the Report and Recommendation #[20] are overruled in their entirety.

IT IS FURTHER ORDERED that Petitioner Edward Tramble's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that Petitioner Edward Tramble's request for appointment of counsel #[20] is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate judgment is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 27th day of April, 2017.